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**UNITED STATES BANKRUPTCY COURT**  
**CENTRAL DISTRICT OF CALIFORNIA, SANTA ANA DIVISION**

In re

THE SOURCE HOTEL, LLC,

Debtor.

Case No.: 8:21-bk-10525-ES

Chapter 11

**CREDITOR RETROLOCK  
CORPORATION'S OBJECTION TO  
DEBTOR'S MOTION FOR ENTRY OF  
ORDER: (1) AUTHORIZING SALE OF  
SUBSTANTIALLY ALL OF THE DEBTOR'S  
ASSETS; (2) AUTHORIZING THE  
DEBTOR'S ASSUMPTION AND  
ASSIGNMENT OF GROUND LEASE AND  
DETERMINING CURE AMOUNT;  
(3) WAIVING THE 14-DAY STAY PERIODS  
SET FORTH IN BANKRUPTCY RULES  
6004(h) AND 6006(d); AND (4) GRANTING  
RELATED RELIEF**

Date: September 30, 2021

Time: 2:00 P.M.

Location: ZoomGov

**CREDITOR RETROLOCK CORPORATION'S OBJECTION TO DEBTOR'S MOTION FOR ENTRY  
OF ORDER: (1) AUTHORIZING SALE OF SUBSTANTIALLY ALL OF THE DEBTOR'S ASSETS;  
(2) AUTHORIZING THE DEBTOR'S ASSUMPTION AND ASSIGNMENT OF GROUND LEASE  
AND DETERMINING CURE AMOUNT; (3) WAIVING THE 14-DAY STAY PERIODS SET  
FORTH IN BANKRUPTCY RULES 6004(h) AND 6006(d); AND (4) GRANTING RELATED  
RELIEF**

**OPPOSITION TO MOTION**

**I. INTRODUCTION**

RETROLOCK CORPORATION (“Retrolock”) respectfully submits this Opposition to Debtor and Debtor in Possession’s Motion for Entry of Order: (1) Authorizing Sale of Substantially All of the Debtor’s Assets; (2) Authorizing the Debtor’s Assumption and Assignment of Ground Lease and Determining Cure Amount; (3) Waiving the 14–Day Stay Periods Set Forth in Bankruptcy Rules 6004(h) and 6006(d); and (4) Granting Related Relief. Doc. 227. Retrolock objects to Debtor’s request to sell its assets free and clear of Retrolock’s mechanics lien.

**II. STATEMENT OF FACTS**

“Since at least 2014, the Debtor has been developing a full-service, seven-story hotel with 178 rooms in the City of Buena Park, County of Orange, State of California (the ‘Hotel’) . . . .” Doc. 227, p7, ¶ 3. “Construction of the Hotel began in 2016. To finance the construction of the Hotel, on May 24, 2016, the Debtor obtained a \$29.5 million construction loan (the ‘Loan’) from Evertrust Bank (‘Evertrust’) . . . .” *Id.* at ¶ 4. “Subsequently, in December 2020, an entity called Shady Bird Lending, LLC (‘Shady Bird’) purchased Evertrust’s interests in the Loan at a significant discount, for a reported purchase price of approximately \$19 million.” *Id.* at p. 10, ¶ 13.

Retrolock supplied the necessary labor and materials for the Hotel under a subcontract with Debtor’s general contractor. After failing to receive payment, Retrolock recorded a Claim of Mechanic’s Lien for \$258,225.27 on July 24, 2020 as Document No. 2020000358872. On October 2, 2020, Retrolock filed a Complaint for Foreclosure on Mechanic’s Lien in the Superior Court of California, County of Orange, Case No. 30–2020–01163206–CU–CL–CJC. Following Debtor’s bankruptcy petition, the Superior Court has stayed Retrolock’s case. Retrolock filed a Proof of Claim for the amount of its Mechanic’s Lien on March 26, 2021. Claim 3.

**III. RETROLOCK DOES NOT CONSENT TO THE SALE OF DEBTOR'S ASSETS FREE  
OF LIENS**

“The Debtor believes that Shady Bird, the EB-5 Lenders, and all other creditors who assert liens against the Assets (or a portion thereof) will consent to the sale of the Assets as proposed herein.” Doc. 227, p30, ll. 11–13. However, Retrolock does not consent at this time.

**IV. DEBTOR FAILS TO ESTABLISH RETROLOCK IS A JUNIOR LIENHOLDER**

Debtor argues, “Specifically, a junior lienholder in California could be compelled to accept a money satisfaction upon a senior secured party’s disposition of collateral under the default remedies provided in §§ 9615 and 9617 of California’s Uniform Commercial Code, or upon a foreclosure sale of real property pursuant to the lien of a deed of trust or an execution sale pursuant to a judgment lien (see Cal. Civ. Proc. Code §§ 701.630, 729.080 and 701.810). The holder of a junior lien would be compelled to accept any surplus funds as a satisfaction of its interest.” Doc. 227, p. 33, ll. 8–14. However, Retrolock’s status as a junior lienholder is not established.

“A [mechanic’s] lien under this chapter . . . has priority over a lien, mortgage, deed of trust, or other encumbrance on the work of improvement or the real property on which the work of improvement is situated, that (1) attaches after commencement of the work of improvement or (2) was unrecorded at the commencement of the work of improvement and of which the claimant had no notice.” Cal. Civ. Code § 8450(a). Thus, the date Retrolock’s mechanic’s lien was recorded is not determinative.

Debtor’s motion states the work of improvement began on an undisclosed date in 2016. Doc. 227, p. 11, l. 27. Evertrust’s lien was not recorded until June 3, 2016. Doc. 227, p. 12, ll. 3–8. When, exactly, the work of improvement began in 2016 will determine the priority of liens. Debtor fails to present any

evidence in that regard and Retrolock<sup>1</sup> is unable to discover the information due to the stay upon its Superior Court case.

**V. CONCLUSION**

Retrolock objects to the sale of Debtor's assets unless Retrolock's secured claim is paid in full.

DATED: September 23, 2021

**NOVIAN & NOVIAN, LLP**  
Attorneys at Law

By: /s/ Sean Raymond Bozarth  
FARHAD NOVIAN  
SEAN RAYMOND BOZARTH

Attorneys for Retrolock Corporation

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<sup>1</sup> The date *Retrolock* began contributing to the work of improvement is also indeterminate as equal priority is shared among all mechanic's liens.

## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:  
Novian & Novian; 1801 Century Park East, Suite 1201, Los Angeles, California 90067

A true and correct copy of the foregoing document entitled (*specify*): Creditor's Retrolock Corporation's Objection to Debtor's Motion of Entry of Order (1) Authorizing Sale of Sunstantially All of the Debtor's Assets;(2) Authorizing the Debtor's Assumption and Assignment of Ground Lease and Determining Cure Amount; (3) Waiving the 14 Day Stay Periods Set Forth in Bankruptcy Rules 6004(h) and (4) Granting Related Relief  
will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) 09/23/2021, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Please refer to the attached Service List.

☒ Service information continued on attached page

**2. SERVED BY UNITED STATES MAIL:**

On (*date*) \_\_\_\_\_, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) \_\_\_\_\_, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

09/23/2021 Cynthia Garcia /s/ Cynthia Garcia  
*Date Printed Name Signature*

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